

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2007

CORAM:

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

Second Appeal No.1627 of 2002

Santhivelu .. Appellant/I Respondent/Plaintiff

Vs.

1. Adhimoolam ..I Respondent/Appellant/I Defendant
2. Sekar ...II Respondent/2nd Respondent/II Defendant
3. The District collector,  
Tiruvannamalai. ...III Respondent/3rd Respondent/III Defendant
4. The Tahsildar,  
Tiruvannamalai. :IV Respondent/IV Respondent/IV Defendant

Prayer: Appeal filed under Section 100 of C.P.C. against the judgment and decree, dated 5.4.2002, made in A.S.No.95 of 2001, on the file of the Additional District Court, Tiruvannamalai, reversing the judgment and decree, dated 20.7.2001, made in O.S.No.363 of 1998, on the file of the Principal District Munsif, Tiruvannamalai.

For Appellant : T.R. Rajaraman

For respondents : Mr. R. Bharanitharan - R1 & R2

JUDGMENT

The second appeal has been filed against the judgment and decree, dated 5.4.2002, made in A.S.No.95 of 2001, on the file of the Additional District Court, Tiruvannamalai, reversing the judgment and decree, dated 20.7.2001, made in O.S.No.363 of 1998, on the file of the Principal District Munsif, Tiruvannamalai.

2. The plaintiff, who is the appellant in the present second appeal, had filed the suit in O.S.No.363 of 1998, on the file of the Principal District Munsif, Tiruvannamalai, praying for the relief of permanent injunction to restrain the defendants 1 and 2 from interfering with her possession and

enjoyment of the suit property and for a direction against the fourth defendant to include the name of the plaintiff in the patta pertaining to the suit property.

3. The trial Court by its judgment and decree, dated 20.7.2001, had decreed the suit. In the appeal preferred by the first defendant, the lower appellate Court by its judgment and decree, dated 5.4.2002, made in A.S.No.95 of 2001, had reversed the judgment and decree of the trial Court, dated 20.7.2001. Hence, the plaintiff in O.S.No.363 of 1998, had preferred the present second appeal in S.A.No.1627 of 2002, before this Court.

4. At the stage of the hearing of the second appeal, the learned counsels appearing on behalf of the appellant as well as the first and second respondents have submitted that the parties have entered into a compromise in the matter. It has also been submitted by the learned counsel appearing on behalf of the appellant that the third and fourth respondents are given up, as no relief has been sought for against them.

5. A joint compromise petition, dated 20.6.2007, signed by the appellant and the first and second respondents as well as their counsels, has been filed, along with the plan of the property in question, before this Court containing the terms of compromise.

6. The learned counsel appearing on behalf of the appellant and the first and second respondents had prayed that this Court be pleased to record the joint compromise petition and pass a decree in accordance therewith.

7. The joint compromise petition reads as follows:-

"JOINT COMPROMISE PETITION FILED UNDER ORDER 23, RULE 3, C.P.C. READ WITH SECTION 151 C.P.C.

APPELLANT:

Shanthi Velu, aged about 35 years, Wife of Velu, residing at Vengikkal Village and Post, Tiruvannamalai Taluk and District.

The address service of the appellant is as stated above and of his Counsel.

RESPONDENTS:

1. Adhimoolam, aged 40 years, S/o. Kathirvelu,

2. Sekar, aged 42 years, S/o. Veerasamy,

Both are residing at Kal Nagar, Tiruvannamalai Town &

District.

3. Government of Tamil Nadu, rep. by the District Collector of Tiruvannamalai District, Tiruvannamalai.

4. The Tahsildar, Tiruvannamalai.

1. The appellant herein filed the suit against the respondents 1 and 2 herein pertaining to the suit property in O.S.No.363 of 1998, on the file of the learned District Munsif, Tiruvannamalai, for the relief of permanent injunction not to interfere with her possession and enjoyment of the suit property and against the 4<sup>th</sup> respondent to include the name of the appellant/plaintiff in the Patta pertaining to the suit property and the said suit was decreed after hot contest on 20.7.2001.

2. The respondents 1 and 2 herein preferred an appeal in A.S.No.95 of 2001 on the file of the learned Additional District Judge, Tiruvannamalai, against the judgment and decree in O.S.No.363 of 1998, of the learned District Munsif, Tiruvannamalai and the same was allowed on 5.4.2002, which has resulted in the filing of the above second appeal by the plaintiffs/appellants.

3. The appellants and the respondents 1 and 2 have arrived at a compromise as detailed below and morefully detailed in the accompanying plan, according to which the appellants may be granted the decree for permanent injunction with regard to 1.15 acres out of the total extent of 2.64 acres lying within the following boundaries and shaded in red colour in the accompanying plan. East of 20 the forest inclusive of the 20 feet width common road belonging to the appellants and respondents 1 and 2 carved out on the western side of the entire suit property and shaded in yellow colour, west of the property belonging to V.P.Lal, north of the second respondent's portion shaded in green colour, south of the first respondent's portion shaded in blue colour. The plan appended to this compromise petition may be ordered to be the part of the decree.

Since the relief of permanent injunction claimed against the 4<sup>th</sup> respondent to include the name of the appellant in the patta pertaining to the suit property has become infructuous, the respondents 3 and 4 are given up in this second appeal.

Hence, this compromise petition may be recorded and the second appeal may be allowed in the above terms."

8. Recording the above joint compromise petition, dated 20.6.2007, the Second Appeal is disposed of on the above terms. The above said compromise petition shall form part of the decree. No costs.

Sd/  
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1.The Additional District Judge,  
Tiruvannamalai.

2.The Principal District Munsif,  
Tiruvannamalai.

3.The Section Officer,  
VR Section, High Court, Madras.

+1cc to Mr.R.Karthikeyan, Advocate Sr 36118

+1cc to Spl. Govt. Pleader Sr 36246

+1cc to Mr.T.R.Rajaraman, Advocate Sr 36404

GG (CO)  
km/12.7.

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